



NOV 15 1989

Reply To
Attn Of: HW-113

URGENT LEGAL MATTER
CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Chehalis Realty Company
P.O. Box 626
Chehalis, Washington 98532

E.G. Amundsen/
American Crossarm & Conduit
Houston S.W. Investors
P.O. Box 19074
Houston, Texas 77224

David Ross and Jack Ross
Freeway Parts
99 SW Chehalis Avenue
Chehalis, Washington 98532

Re: American Crossarm & Conduit
Superfund Site, Chehalis, Washington (the "site")
EPA Notice

Dear Sir or Madam:

This is a notice letter which serves three functions. First, it contains a formal notice that the United States Environmental Protection Agency ("EPA") has decided not to offer the potentially responsible parties the opportunity to perform a Remedial Investigation/Feasibility Study ("RI/FS") at this site. Second, it informs you that EPA will be conducting a RI/FS at this site. Third, the EPA will be constructing a fence at the site. These actions by EPA are undertaken pursuant to its response and enforcement authorities under the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA), 42 U.S.C. § 9601 et seq.

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NOTICE OF DECISION

EPA has decided not to offer the potentially responsible parties an opportunity to perform the RI/FS. This decision is based on the determination that you may not have the financial viability to fund the work, and that proceeding in such a fashion would not facilitate timely implementation of the RI/FS, and therefore would not be in the public interest. Thus, pursuant to Section 122(a) of CERCLA 42 U.S.C. § 9622(a), EPA has determined that it will not invoke the special notice letter provisions of § 122(e) and will not negotiate the conduct of the RI/FS at the site. This decision is not judicially reviewable.

NOTICE OF RI/FS

Officers, employees and authorized representatives of EPA will be entering and need continued access to the site for the following purposes: taking of such soil, water, and air samples as may be determined to be necessary; the sampling of any solids or liquids stored or disposed of on site; the drilling of holes and installation of monitoring wells for subsurface investigation; other action related to the investigation of surface or subsurface contamination.

NOTICE OF CONSTRUCTION

EPA has determined conditions at the site to be a health risk to the public and consequently access to the site must be restricted. The Agency for Toxic Substances and Disease Registry (ATSDR) has issued a report (copy attached) to EPA which has determined that the physical conditions present at the site pose a significant hazard to human health. ATSDR also recommends that the site access be restricted. Representatives of EPA will be constructing a seven foot chain link fence topped with 3-strand barbed wire, and include a locking gate. The fence will be approximately 120' long and parallel to Chehalis Avenue.

ACCESS AGREEMENT

EPA would prefer to resolve questions of access to the site voluntarily. Therefore, enclosed with this notice letter is an agreement for providing voluntary consent for unrestricted EPA access to the site for the purpose of performing the above-described activities. EPA believes that the authority to conduct these activities is clearly provided by CERCLA, and that no releases or agreements from owners of property comprising the site are necessary to proceed. However, to prevent any possible misunderstanding, we are requesting your approval of the agreement.

Because the RI/FS activities are scheduled to begin in December 1989, the voluntary agreement must be concluded by December 10, 1989, if we are to resolve this matter informally. If agreement cannot be reached by then, we will be compelled to resort to other mechanisms to assure access to the site. If you have any questions regarding this matter, please contact Leland Marshall, Site Manager, at (206) 442-2723 or Richard Mednick, Assistant Regional Counsel, at (206) 442-1797.

Sincerely,


Charles E. Findley, Director
Hazardous Waste Division

Enclosures

cc: Washington Dept. of Ecology
Joel Mulder, ATSDR
Jack Morris, LCHD
John Daniel Ballbach, Esq., Perkins Coie

AGREEMENT FOR ACCESS AND RIGHT-OF-ENTRY FOR PURPOSES OF
PERFORMING A REMEDIAL INVESTIGATION AND FEASIBILITY STUDY

_____, hereafter referred to as the "Owner" or "Operator", in recognition of the authority of the UNITED STATES ENVIRONMENTAL PROTECTION AGENCY ("EPA") to respond to the release or threatened release of hazardous substances at the American Crossarm & Conduit site, located in Chehalis, Washington and identified in Appendix A attached hereto and incorporated herein, ("the Site"), pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 et seq., as amended ("CERCLA") grants to EPA right-of-entry upon the Site upon the terms and conditions described below.

1. Insofar as it has legal power to do so, and without representing that it has such power, the Owner or Operator hereby grants to EPA, its officers, agents, employees and representatives access and an irrevocable right-of-entry upon the Site at any time until such time as EPA has exercised its authority under CERCLA and has provided written notice to the Owner or Operator that all such activities, including but not limited to investigations and other information gathering and monitoring activities, have been completed. This access and right-of-entry is granted to enable EPA to undertake remedial investigation and feasibility study ("RI/FS") activities as those terms are described in Section 104 of CERCLA, 42 U.S.C. § 9604, and at 40 C.F.R. § 300.68(d). These actions may include the destruction, alteration or removal of contaminated property, testing, treatment, monitoring or any other activity consistent with CERCLA.

2. All tools, equipment, buildings, improvements and other property taken upon or placed upon the Site by or at the direction of EPA shall remain the property of EPA.

3. EPA shall have the right to patrol and police the Site during the period in which this access and right-of-entry is in effect.

4. Owner or Operator represents and EPA understands that in agreeing to this right-of-entry, Owner or Operator acts on its behalf only, and has no authority to act, and does not purport to act, on behalf of any other person(s) with respect to any right any such other person(s) may have to object to the permit access and right-of-entry requested by EPA.

5. The parties hereto agree that this access and right-of-entry is entered into at EPA's request and does not constitute a release of claims which EPA may have against the Owner or Operator for conditions at or near the Site.

IN WITNESS WHEREOF, the party hereto has executed this Agreement in two (2) copies, each of which shall be deemed an original.

OWNER/OPERATOR

By: _____ Date _____
E.G. Amundsen